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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,691	08/21/2003	Arben Kryeziu	1780.004US1	9290
21186 7590 09/29/2009 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER HUERTA, ALEXANDER Q				
ART UNIT 2427		PAPER NUMBER		
NOTIFICATION DATE 09/29/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/645,691

Applicant(s)

KRYEZIU, ARBEN

Examiner

Alexander Q. Huerta

Art Unit

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 August 2009 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fristoe et al. (US Pat. **7,178,161**) in view of Wiser et al. (US Pat. **6,385,596**), Searle (US Pub. **2003/02200877**), of Dwek (US Pub. **2001/0018858**), and in further view of Brown (US Pat. **5,857,190**), herein referenced as Fristoe, Wiser, Searle, Dwek, and Brown, respectively.

Regarding **claim 1**, Fristoe discloses "selecting a purchasing system interface for use with a media stream..." (Col. 3 lines 29-42, Col. 8 lines 46-55, Col. 11 lines 7-24, i.e. Fristoe teaches that the user (e-tailer) has predetermined profile that identifies the player's button style, logo, and background colors for selecting a purchasing interface);

"packaging the media stream with a self loading and self executing media player and with configuration information for presenting the purchasing system interface with the media stream... the media player when executed and configured with the configuration information presents the purchasing system (Col. 4 line 3-26, Col. 5 line 63-Col. 6 line 3, Col. 7 lines 27-31, Col. 12 lines 14-41, Figs. 8A-C, i.e. the media player is built on the fly using a set a parameters and using the connection speed of the content viewer. In addition, Merriam-Webster's dictionary defines "package" as being a ready-made computer program or a collection of related software, one of ordinary skill would recognize that a media stream and a media player are a package of related software, which therefore meets the limitation) and the configuration information is included within the media stream and the configuration also defines specific instances of the media stream to present to the recipient..." (Col. 2 lines 54-63, Col. 5 line 63-Col. 6 line 23, Col. 7 lines 17-31, i.e. the application server transmits the appropriate player to the content viewer based on the determined connection speed. Thus, the application server transmits a specific instance of a media stream to the content viewer);

"streaming the media stream to the recipient, wherein the media player self-loads and self-executes on the recipient's computing device and configures itself for execution on the recipients computing device using the configuration information, and wherein the

media player self-loads when all the media player is received on the recipients computing device and while the media stream is still being received on the recipients computing device and the media player processes the directives of the configuration information on the recipient computing device" (Col. 5 line 63-Col. 6 line 23, Col. 7 lines 17-40, i.e. the media player is executed on the content viewer's computer).

Fristoe fails to disclose "monitoring the usage of the media stream and purchasing system interface, and monitors usage of the media stream and the purchasing system interface, and wherein the media player tracks how much time media content, associated with the media stream, was played by the recipient of the media stream and tracks days and times of day that the recipient plays the media content and the media player reports back the time the media content was played and the days and times of day that the recipient played the media content to a licensee of the media content, and wherein the configuration information further defines types of information that the media player is to monitor and report back to on."

Wiser discloses "monitoring the usage of the media stream and purchasing system interface, and monitors usage of the media stream and the purchasing system interface, and wherein the media player tracks how much ... media content, associated with the media stream, was played by the recipient of the media stream and the media player reports back ... the media content was played ... to a licensee of the media content." (Col. 10 lines 18-34, lines 45-47, Col. 10 line 60-Col. 11 line 7, Col. 11 lines 46-57, Col. 23 lines 16-30, Figs. 1A-B, i.e. media usage and purchase information is uploaded to the rights agent 108). Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing the monitoring of the usage of the media stream and purchasing system interface, as taught by Wiser, for the purpose of royalty payments and other fees to artists (Col. 11 lines 53-57).

However, the combination still fails to explicitly disclose that "the media player tracks days and times of days the recipient plays the content, and wherein the configuration information further defines types of information that the media player is to monitor and report back to on."

Searle discloses that "the media player tracks days and times of days the recipient plays the content, and wherein the configuration information further defines types of information that the media player is to monitor and report back to on." ([0012], [0045]-[0047], i.e. the tracking function records the date and time the media was played). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of tracking the days and times of days when recipients play content as taught by Searle, to improve the custom media player system of Fristoe for the predictable result of allowing content providers to accurately gauge the popularity of the content and adjust it to the customer base.

Fristoe discloses the selection of a purchasing interface, however the combination fails to explicitly disclose that "the ... system interface is selected in response to a recipient's manual selection when the recipient is presented with available ... system interfaces."

Dwek discloses "the ... system interface is selected in response to a recipient's manual selection when the recipient is presented with available ... system interfaces." ([0081], Fig. 3A, i.e. the user can select a precreated "skin" or appearance template for the user interface 250). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of allowing the user to select an interface taught by Searle, to improve the custom media player system of Fristoe for the predictable result of allowing user to customize the shape, color, or other feature to suit their preferences.

The combination as disclosed above fails to explicitly disclose that "the configuration information also includes media player processing directives for having the media player selectively capture and monitor interactions occurring between the recipient and the purchasing system interface."

Brown discloses that "the configuration information also includes media player processing directives for having the media player selectively capture and monitor interactions occurring between the recipient and the purchasing system interface." (Col. 2 lines 23-56, Col. 4 lines 47-65, i.e. Brown teaches the technique of a headend that distributes event filtering criteria to a group of user interface units. The headend programs the user units on what to monitor and report back on. The user units can be configured to monitor things such as shopping and purchasing habits). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of distributing configuration information to capture and monitor interactions with the recipient and purchasing interface taught by Searle, to improve the custom media player system of

Fristoe for the predictable result of enabling the distributor to dynamically change monitoring configuration information for selected user interfaces.

Regarding **claim 2**, Fristoe discloses "playing a portion of the media stream on a computing device of the recipient by using the media player, wherein media content included within the media stream is simultaneously presented on a display with the purchasing system interface and the purchasing system interface can be independently interacted with via the display" (Fig. 8A-8C, Col. 9 lines 21-26).

Regarding **claim 3**, Fristoe discloses "receiving purchasing selections from the recipient accessing a number of options from the purchasing system interface while viewing portions of the media content (Fig. 8A-8C) and using the media player for tracking any purchase that occurs for the media content" (Col. 8 lines 56-64).

Regarding **claim 4**, Fristoe fails to disclose "purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget".

Wiser discloses "purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget" (Col. 11 lines 49-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget, as taught by Wiser, for the purpose of royalty payments and other fees to artists (Col. 11 lines 53-57).

Regarding **claim 5**, Fristoe discloses "presenting the media content within a first frame of a browser page; and presenting the purchasing system interface within a second frame of the browser page" (Fig. 8A-8C, Col. 9 lines 21-26).

Regarding **claim 6**, Fristoe fails to disclose "receiving usage statistics from the media player identifying playing and purchasing information associated with the recipient playing media content included within the media stream and interacting with the purchasing system interface".

Wiser discloses "receiving usage statistics from the media player identifying playing and purchasing information associated with the recipient playing media content included within the media stream and interacting with the purchasing system interface" [Col. 11 lines 46-57]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing the receiving of usage statistics from the media player identifying playing and purchasing information associated with the recipient playing media content included within the media stream and interacting with the purchasing system interface, as taught by Wiser, for the purpose of royalty payments and other fees to artists (Col. 11 lines 53-57).

Regarding **claim 7**, Fristoe discloses "packaging further comprises including customized advertisement information with the media stream" (Col. 2 lines 22-31, Col. 7 lines 41-50, i.e. Fristoe teaches that the content viewer displays rich media content/advertising that is customized by the service provider).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Q. Huerta whose telephone number is (571) 270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 2427

September 23, 2009

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427